

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

<b>BRET BYNUM</b>	<b>§</b>	
	<b>§</b>	<b>CIVIL ACTION NO: 4:21-cv-03346</b>
	<b>§</b>	
<b>PLAINTIFF</b>	<b>§</b>	
	<b>§</b>	<b>DISTRICT JUDGE</b>
<b>v.</b>	<b>§</b>	<b>HON. DAVID HITTNER</b>
	<b>§</b>	
<b>INGRAM BARGE CO. and</b>	<b>§</b>	<b>MAGISTRATE JUDGE</b>
<b>MARQUETTE</b>	<b>§</b>	<b>HON. PETER BRAY</b>
<b>TRANSPORTATION</b>	<b>§</b>	
	<b>§</b>	
<b>DEFENDANTS</b>	<b>§</b>	

**INGRAM BARGE COMPANY'S & MARQUETTE TRANSPORTATION  
COMPANY, LLC'S REPLY IN SUPPORT OF THEIR  
MOTION TO DISMISS UNDER RULE 12(b)(6)**

Defendants Ingram Barge Company (“Ingram”) and Marquette Transportation Company, LLC (“Marquette”) (collectively hereinafter “Barge Owners”), hereby file this Reply in Support of their Motion to Dismiss Under Rule 12(b)(6) (Doc. 17). Whether through a civil action or action sounding in admiralty, salvage claims are governed by the statutory provisions of 46 U.S.C. § 80107, including the statute’s two-year time bar. Plaintiff’s attempt to draw a distinction between his suit in admiralty and a civil action is inapposite according to case law, and therefore Plaintiff’s Complaint is untimely and should be dismissed with prejudice.

After waiting over four years to file his lawsuit, Plaintiff clings to the argument that his claim for salvage was brought in admiralty rather than as a civil suit, and as such his claims are governed by the doctrine of laches rather than the applicable federal statute, allowing him to bypass the statutory two-year time bar. However, the case law cited by Plaintiff to support his poorly veiled attempt to circumvent the two-year statute of limitations does not stand for this proposition. Plaintiff relies on dicta in a footnote to support his contention that a salvage claim is subject to laches rather than the two-year statute of limitations. *See Dorothy v. City of New York*, 749 F. Supp. 2d 50, n.17 (E.D.N.Y. 2010). A thorough reading of *Dorothy v. City of New York*, however, reveals that the case does not actually address the issue of whether laches applies instead of the two-year statutory time bar for salvage. In fact, Plaintiff's cited excerpt specifically declines to address the issue (“The foregoing makes it unnecessary to consider whether [the parties] are also barred from receiving their respective shares by 46 U.S.C. § 80107(c.”).

Instead, relevant case law holds that the statutory two-year time bar applies to claims for salvage in admiralty actions, even after the change in statutory language referenced by Plaintiff.<sup>1</sup> *See Stambaugh v. Marittrans, Inc.*, No. 706-CV-149-FL, 2007 WL 2002607, at \*7 (E.D.N.C. July 5, 2007) (“The court notes that in salvage

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<sup>1</sup> The change in statutory language from the prior iteration of 46 U.S.C. § 80107 to the current version referenced by Plaintiff took place in 2006.

actions arising under admiralty law, plaintiffs have two years in which to bring an action) (emphasis added).

Furthermore, courts have specifically addressed the issue of whether § 80107's statutory time bar or laches applies to salvage claims:

In assessing the timeliness of a maritime claim, the doctrine of laches typically applies rather than any fixed statute of limitations. However, there are many examples of exceptions to this general rule, such as statutory provisions that impose time-bars on . . . maritime salvage actions, see 46 U.S.C. § 80107(c).

*Am. Steamship Owners Mut. Prot. & Indem. Ass'n, Inc. v. Dann Ocean Towing, Inc.*, 756 F.3d 314, 318 (4th Cir. 2014) (emphasis added); *see also Crescent Towing Salvage Co., Inc. v. M/V Chios Beauty*, CV 05-4207, 2008 WL 11353738, at \*1 (E.D. La. July 7, 2008) (granting summary judgment on motion to dismiss salvage claims as time barred under § 80107).

It is clear that maritime salvage actions, such as the one brought by Plaintiff, are governed by the applicable statutory provisions of 46 U.S.C. § 80107 rather than the doctrine of laches. As such, Plaintiff's claims for salvage are clearly time-barred and should be dismissed with prejudice pursuant to Rule 12(b)(6).

Respectfully submitted,

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**ATTORNEYS FOR MARQUETTE  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing pleading has been served upon all counsel of record by electronic mail and/or by the CM/ECF system this 2nd day of May, 2022.

/s/ Michael A. Golemi  
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